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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,981	11/28/2003	Humberto Urriola	ASP31	9030
7590 09/21/2005			EXAMINER	
Astral Property Pty Ltd Unit 3 19-21 Gibbes Street Chatswood, NSW 2067 AUSTRALIA			PECHHOLD, ALEXANDRA K	
			ART UNIT	PAPER NUMBER
			3671	
DATE MAILED: 09/21/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/722,981

**Applicant(s)**

URRIOLA ET AL.

**Examiner**

Alexandra K. Pechhold

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5,7-9,14 and 15 is/are allowed.
- 6) ☒ Claim(s) 1 and 11-13 is/are rejected.
- 7) ☒ Claim(s) 3 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. The applicant's amendment of 6/29/05 and duplicate amendment of 7/6/05 is confusing, since the applicant's references to claims 4-10 do not correspond with the limitations in claims 4-10 of the Claims filed 11/28/03. The applicant's amendments to these claims do not make any sense, since they don't correspond to the 11/28/03 claims. For the purposes of examination, the Examiner is responding to the claims as they now read in the 6/29/05 Amendment.

### ***Claim Objections***

2. Claim 3 is objected to because of the following informalities: "such as" in line 3 should not be used since it is confusing if this limitation is being recited or not. Appropriate correction is required.

3. Claim 11 is objected to because of the following informalities: "the apertures" in line 2 and "the respective plate members" in line 3 lack antecedent basis. Appropriate corrections are required.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

**5. Claims 1 and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Urriola (US 5,810,510).**

Regarding claim 1, Urriola discloses a roadway or other transport corridor drainage system, seen in the embodiment of Fig. 5, comprising:

- at least the edge surface, of the roadway or other transport corridor, seen as upper layer (17) of double-walled drainage cell material (11), formed by a drainage structure having two perforated planar members, seen as (8) and (8) in Fig. 4, held apart by substantially rigid spacer members, seen as (1), (1), and (1) in Fig. 4; (Col 3, lines 53-56); the voids in the drainage structure being filled with aggregate and being permeate to water, since Urriola discloses that discloses that the cells (11) are surrounded by water permeable geotextile material (9) and surrounded by clean sand fill (10) (Col 4, lines 3-8, 15-19), so therefore the sand can penetrate into the cells;
- a water permeable drain, seen as first holding tank (16), located at least below the permeable edge surface, and
- a water permeable retention tank, seen as channel (15), connected to the permeable drain, such that runoff passes through the permeable surface into the drain and into the tank, where the water is stored and flows back into the soil through the tank's walls (see Col 4, lines 32-41).

Regarding claim 11, the cellular nature of the cells (11) generally forms a checkerboard pattern, and support surfaces can be seen as the upright side walls.

Regarding claim 12, the support surfaces of Urriola have openings therethrough since they are water permeable.

Regarding claim 13, the figures of Urriola illustrate the cells as box-like and they are perforated, and covered with a water permeable geotextile material (9) (Col 4, lines 3-8).

### ***Allowable Subject Matter***

6. Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 5, 7-9, 14, 15 are allowed.

### ***Response to Arguments***

8. Applicant's arguments filed 6/29/05 have been fully considered but they are not persuasive. The applicant amended claim 1 to distinguish from Urriola (US 5,810,510), pointing out that the drainage cells (11) are empty of any infill. But the Examiner disagrees, since water travels through the cells. The cells (11) are wrapped in a geotextile that is water permeable and surrounded by sand. Since the water enters the cells, the surrounding fine sand particulate is also capable of being dispersed into the cells by the flow of water therein. Urriola does not preclude the surrounding sand from entering the cells. And since sand can be considered a type of aggregate material, the

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Examiner does not consider that the amendment to claim 1 sufficiently distinguishes from Urriola.

***Conclusion***

**9. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexandra Pechhold whose telephone number is (571) 272-6994. The examiner can normally be reached on Mon-Thurs. from 8:00am to 5:30pm and alternating Fridays from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (571) 272-6998. The fax phone number for this Group is (703) 872-9306.

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**Thomas B. Will**  
**Supervisory Patent Examiner**  
**Group 3600**

AKP  
9/17/05